

No.

200500341



THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

ProGene Plant Research, D. C.

Whereas, THERE HAS BEEN PRESENTED TO THE

Secretary of Agriculture

AN APPLICATION REQUESTING A CERTIFICATE OF PROTECTION FOR AN ALLEGED DISTINCT VARIETY OF SEXUALLY REPRODUCED, OR TUBER PROPAGATED PLANT, THE NAME AND DESCRIPTION OF WHICH ARE CONTAINED IN THE APPLICATION AND EXHIBITS, A COPY OF WHICH IS HEREUNTO ANNEXED AND MADE A PART HEREOF, AND THE VARIOUS REQUIREMENTS OF LAW IN SUCH CASES MADE AND PROVIDED HAVE BEEN COMPLIED WITH, AND THE TITLE THERETO IS, FROM THE RECORDS OF THE PLANT VARIETY PROTECTION OFFICE, IN THE APPLICANT(S) INDICATED IN THE SAID COPY, AND WHEREAS, UPON DUE EXAMINATION MADE, THE SAID APPLICANT(S) IS (ARE) ADJUDGED TO BE ENTITLED TO A CERTIFICATE OF PLANT VARIETY PROTECTION UNDER THE LAW.

NOW, THEREFORE, THIS CERTIFICATE OF PLANT VARIETY PROTECTION IS TO GRANT UNTO THE SAID APPLICANT(S) AND THE SUCCESSORS, HEIRS OR ASSIGNS OF THE SAID APPLICANT(S) FOR THE TERM OF TWENTY YEARS FROM THE DATE OF THIS GRANT, SUBJECT TO THE PAYMENT OF THE REQUIRED FEES AND PERIODIC REPLENISHMENT OF VIABLE BASIC SEED OF THE VARIETY IN A PUBLIC REPOSITORY AS PROVIDED BY LAW, THE RIGHT TO EXCLUDE OTHERS FROM SELLING THE VARIETY, OR OFFERING IT FOR SALE, OR REPRODUCING IT, OR IMPORTING IT, OR EXPORTING IT, OR CONDITIONING IT FOR PROPAGATION, OR STOCKING IT FOR ANY OF THE FOREGOING PURPOSES, OR USING IT IN PRODUCING A HYBRID OR DIFFERENT VARIETY THEREFROM, TO THE EXTENT PROVIDED BY THE PLANT VARIETY PROTECTION ACT. (84 STAT. 1542, AS AMENDED, 7 U.S.C. 2321 ET SEQ.)

PEA, FIELD

'Whistler'

In Testimony Whereof, I have hereunto set my hand and caused the seal of the Plant Variety Protection Office to be affixed at the City of Washington, D.C. this twenty-ninth day of June, in the year two thousand and seven.

Attest:

Commissioner
Plant Variety Protection Office
Agricultural Marketing Service

Secretary of Agriculture



U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY - PLANT VARIETY PROTECTION OFFICE

APPLICATION FOR PLANT VARIETY PROTECTION CERTIFICATE
(Instructions and information collection burden statement on reverse)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552a) and the Paperwork Reduction Act (PRA) of 1995.

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). Information is held confidential until certificate is issued (7 U.S.C. 2426).

1. NAME OF OWNER ProGene Plant Research, L.L.C.		2. TEMPORARY DESIGNATION OR EXPERIMENTAL NAME WPX 90105-9		3. VARIETY NAME Whistler	
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP Code, and Country) 860 S. Crestline Othello, WA 99355		5. TELEPHONE (include area code) (509) 488-3977		FOR OFFICIAL USE ONLY PVPO NUMBER 200500341 FILING DATE Sept. 6, 2005	
		6. FAX (include area code) (509) 488-5289			
7. IF THE OWNER NAMED IS NOT A "PERSON", GIVE FORM OF ORGANIZATION (corporation, partnership, association, etc.) Limited Liability Company		8. IF INCORPORATED, GIVE STATE OF INCORPORATION		9. DATE OF INCORPORATION	
10. NAME AND ADDRESS OF OWNER REPRESENTATIVE(S) TO SERVE IN THIS APPLICATION. (First person listed will receive all papers) Kurt Braunwart 860 S. Crestline Othello, WA 99344				FILING AND EXAMINATION FEES: \$ 3652.00 DATE 9/6/2005 CERTIFICATION FEE: \$ 768.00 DATE 6/22/2007	
11. TELEPHONE (include area code) (509) 488-3977		12. FAX (include area code) (509) 488-5289		13. E-MAIL progene@cbnn.net	
14. CROP KIND (Common Name) Field Pea (winter pea)		16. FAMILY NAME (Botanical) Leguminosae		18. DOES THE VARIETY CONTAIN ANY TRANSGENES? (OPTIONAL) <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF SO, PLEASE GIVE THE ASSIGNED USDA-APHIS REFERENCE NUMBER FOR THE APPROVED PETITION TO DEREGULATE THE GENETICALLY MODIFIED PLANT FOR COMMERCIALIZATION.	
15. GENUS AND SPECIES NAME OF CROP Pisum Sativum		17. IS THE VARIETY A FIRST GENERATION HYBRID? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
19. CHECK APPROPRIATE BOX FOR EACH ATTACHMENT SUBMITTED (Follow instructions on reverse)				20. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE SOLD AS A CLASS OF CERTIFIED SEED? (See Section 83(a) of the Plant Variety Protection Act) <input type="checkbox"/> YES (If "yes", answer items 21 and 22 below) <input checked="" type="checkbox"/> NO (If "no", go to item 23)	
a. <input checked="" type="checkbox"/> Exhibit A. Origin and Breeding History of the Variety b. <input checked="" type="checkbox"/> Exhibit B. Statement of Distinctness c. <input checked="" type="checkbox"/> Exhibit C. Objective Description of Variety d. <input type="checkbox"/> Exhibit D. Additional Description of the Variety (Optional) e. <input checked="" type="checkbox"/> Exhibit E. Statement of the Basis of the Owner's Ownership f. <input checked="" type="checkbox"/> Voucher Sample (2,500 viable untreated seeds or, for tuber propagated varieties, verification that tissue culture will be deposited and maintained in an approved public repository) g. <input checked="" type="checkbox"/> Filing and Examination Fee (\$3,652), made payable to "Treasurer of the United States" (Mail to the Plant Variety Protection Office)				21. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF CLASSES? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, WHICH CLASSES? <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED	
23. HAS THE VARIETY (INCLUDING ANY HARVESTED MATERIAL) OR A HYBRID PRODUCED FROM THIS VARIETY BEEN SOLD, DISPOSED OF, TRANSFERRED, OR USED IN THE U. S. OR OTHER COUNTRIES? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO IF YES, YOU MUST PROVIDE THE DATE OF FIRST SALE, DISPOSITION, TRANSFER, OR USE FOR EACH COUNTRY AND THE CIRCUMSTANCES. (Please use space indicated on reverse.)				22. DOES THE OWNER SPECIFY THAT SEED OF THIS VARIETY BE LIMITED AS TO NUMBER OF GENERATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, SPECIFY THE NUMBER 1,2,3, etc. FOR EACH CLASS. <input type="checkbox"/> FOUNDATION <input type="checkbox"/> REGISTERED <input type="checkbox"/> CERTIFIED (If additional explanation is necessary, please use the space indicated on the reverse.)	
25. The owners declare that a viable sample of basic seed of the variety has been furnished with application and will be replenished upon request in accordance with such regulations as may be applicable, or for a tuber propagated variety a tissue culture will be deposited in a public repository and maintained for the duration of the certificate. The undersigned owner(s) is(are) the owner of this sexually reproduced or tuber propagated plant variety, and believe(s) that the variety is new, distinct, uniform, and stable as required in Section 42, and is entitled to protection under the provisions of Section 42 of the Plant Variety Protection Act. Owner(s) is (are) informed that false representation herein can jeopardize protection and result in penalties.				24. IS THE VARIETY OR ANY COMPONENT OF THE VARIETY PROTECTED BY INTELLECTUAL PROPERTY RIGHT (PLANT BREEDER'S RIGHT OR PATENT)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YES, PLEASE GIVE COUNTRY, DATE OF FILING OR ISSUANCE AND ASSIGNED REFERENCE NUMBER. (Please use space indicated on reverse.)	

SIGNATURE OF OWNER

SIGNATURE OF OWNER

NAME (Please print or type)

NAME (Please print or type)

Kurt Braunwart

CAPACITY OR TITLE

DATE

CAPACITY OR TITLE

DATE

Managing Owner

9-205

INSTRUCTIONS

GENERAL: To be effectively filed with the Plant Variety Protection Office (PVPO), **ALL** of the following items must be **received** in the PVPO: (1) Completed application form signed by the owner; (2) completed exhibits A, B, C, E; (3) for a seed reproduced variety at least 2,500 viable untreated seeds, for a hybrid variety at least 2,500 untreated seeds of each line necessary to **reproduce** the variety, or for tuber reproduced varieties verification that a viable (*in the sense that it will reproduce an entire plant*) tissue culture will be deposited and maintained in an approved public repository; (4) check drawn on a U.S. bank for \$3,652 (\$432 filing fee and \$3,220 examination fee), payable to "Treasurer of the United States" (See Section 97.6 of the Regulations and Rules of Practice.) Partial applications will be held in the PVPO for not more than 90 days, then returned to the applicant as unfilled. Mail application and other requirements to Plant Variety Protection Office, AMS, USDA, Room 401, NAL Building, 10301 Baltimore Avenue, Beltsville, MD 20705-2351. Retain one copy for your files. All items on the face of the application are self explanatory unless noted below. Corrections on the application form and exhibits must be initialed and dated. **DO NOT** use masking materials to make corrections. If a certificate is allowed, you will be requested to send a check payable to "Treasurer of the United States" in the amount of \$432 for issuance of the certificate. Certificates will be issued to owner, not licensee or agent.

Plant Variety Protection Office

Telephone: (301) 504-5518

FAX: (301) 504-5291

Homepage: <http://www.ams.usda.gov/science/pvpo/pvpindex.htm>

To avoid conflict with other variety names in use, the applicant must check the appropriate recognized authority and provide evidence that name has been cleared by the appropriate recognized authority before the Certificate of Protection is issued. For example, for agricultural and vegetable crops, contact: Seed Branch, AMS, USDA, 10301 Baltimore Avenue, Suite 401 NAL Building, Beltsville, MD 20705. Telephone: (301) 504-5682 <http://www.ams.usda.gov/lsg/seed.htm>.

ITEM

- 19a. Give:
- (1) the genealogy, including public and commercial varieties, lines, or clones used, and the breeding method;
 - (2) the details of subsequent stages of selection and multiplication;
 - (3) evidence of uniformity and stability; and
 - (4) the type and frequency of variants during reproduction and multiplication and state how these variants may be identified
- 19b. Give a summary of the variety's distinctness. Clearly state how this application variety may be distinguished from all other varieties in the same crop. If the new variety is most similar to one variety or a group of related varieties:
- (1) identify these varieties and state all differences objectively;
 - (2) attach statistical data for characters expressed numerically and demonstrate that these are clear differences; and
 - (3) submit, if helpful, seed and plant specimens or photographs (prints) of seed and plant comparisons which clearly indicate distinctness.
- 19c. Exhibit C forms are available from the PVPO Office for most crops; specify crop kind. Fill in Exhibit C (Objective Description of Variety) form as completely as possible to describe your variety.
- 19d. Optional additional characteristics and/or photographs. Describe any additional characteristics that cannot be accurately conveyed in Exhibit C. Use comparative varieties as is necessary to reveal more accurately the characteristics that are difficult to describe, such as plant habit, plant color, disease resistance, etc.
- 19e. Section 52(5) of the Act requires applicants to furnish a statement of the basis of the applicant's ownership. An Exhibit E form is available from the PVPO.
20. If "Yes" is specified (*seed of this variety be sold by variety name only, as a class of certified seed*), the applicant **MAY NOT** reverse this affirmative decision after the variety has been sold and so labeled, the decision published, or the certificate issued. However, if "No" has been specified, the applicant may change the choice. (See Regulations and Rules of Practice, Section 97.103).
23. See Sections 41, 42, and 43 of the Act and Section 97.5 of the regulations for eligibility requirements.
24. See Section 55 of the Act for instructions on claiming the benefit of an earlier filing date.

22. CONTINUED FROM FRONT (Please provide a statement as to the limitation and sequence of generations that may be certified.)

23. CONTINUED FROM FRONT (Please provide the date of first sale, disposition, transfer, or use for each country and the circumstances, if the variety (including any harvested material) or a hybrid produced from this variety has been sold, disposed of, transferred, or used in the U.S. or other countries.)

September 10, 2004 Central Washington Grain Growers, Wilbur, Washington, USA for testing of the variety.

24. CONTINUED FROM FRONT (Please give the country, date of filing or issuance, and assigned reference number, if the variety or any component of the variety is protected by intellectual property right (Plant Breeder's Right or Patent).)

NOTES: It is the responsibility of the applicant/owner to keep the PVPO informed of any changes of address or change of ownership or assignment or owner's representative during the life of the application/certificate. The fees for filing a change of address; owner's representative; ownership or assignment; or any modification of owner's name is specified in Section 97.175 of the regulations. (See Section 101 of the Act, and Sections 97.130, 97.131, 97.175(h) of the Regulations and Rules of Practice.)

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0581-0055. The time required to complete this information collection is estimated to average 1.4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, gender, religion, age, disability, sexual orientation, marital or family status, political beliefs, parental status, or protected genetic information. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 14th and Independence Avenue, SW, Washington, DC 20250-9410 or call 202-720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.

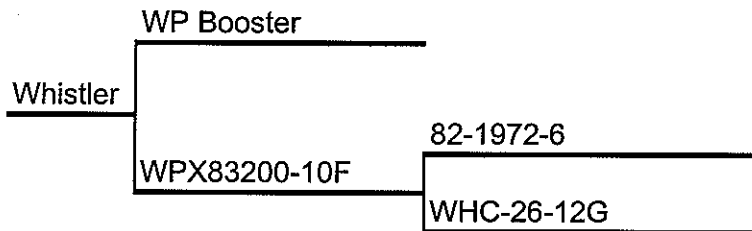
Whistler

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Exhibit A

Whistler was derived during the winter of 1990-1991 in the greenhouse by the following cross.

WP Booster X WPX832000-10F



WP Booster is a winter pea developed in Europe.

82-1972-6 is a breeding line of Rogers Brothers Seed Co.

WHC-26-12G is a breeding line from Dick Auld when he was at the University of Idaho.

Details of Development

Generation	Year	Stock #	Amount	Selection Criteria
F1	1991	91-GH-076		No criteria used; bulked
F2	1992	92-DP2002		No criteria used; bulked
F3	1993	93WPF302		No criteria used; bulked
F4	1996	96S4106	12 SPS's	Maturity, Pod load, Lodging, & Determinancy
F5	1997	97WS5252	1#	Yield, Maturity, Lodging, & Winter hardiness
F6	1998	98WB6238	14#	Yield, Maturity, Lodging, & Winter hardiness
F7	1999	99WS9096	7#	Yield, Maturity, Lodging, & Winter hardiness
F8	2000	00WS9009	3#	Yield, Maturity, Lodging, & Winter hardiness
F9	2001	01WS9108	32#	Yield, Maturity, Lodging, & Winter hardiness
F10	2002	02WS90343	395#	Yield, Maturity, Lodging, & Winter hardiness
F11	2003	Lot 5 SBA	5980#	Yield, Maturity, Lodging, & Winter hardiness

Whistler was also tested as WPX90105-9.

Lot 5 SBA has been increased to commercial size quantities. It has been observed through the F13 generation and has been uniform and stable with no variants seen.

Whistler**Exhibit B**

Whistler is most similar to the winter pea Granger, however Whistler differs in the following ways.

1. Whistler has a white flower whereas Granger has a purple colored flower.
2. Whistler has a yellow green seed coat color whereas Granger has a black speckled seed coat.

**U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE
SCIENCE AND TECHNOLOGY
PLANT VARIETY PROTECTION OFFICE
BELTSVILLE, MD 20705**

Exhibit C

**OBJECTIVE DESCRIPTION OF VARIETY
Pea (*Pisum sativum* L.)**

NAME OF APPLICANT (S) PROGENE, LLC	TEMPORARY OR EXPERIMENTAL DESIGNATION WJPK 90105-9	VARIETY NAME WHISTLER
ADDRESS (Street and No. or RD No., City, State, Zip Code and Country) 860 S. CRESTLINE OTHELO, WA 99344		PVPO NUMBER 200500341

PLEASE READ ALL INSTRUCTIONS CAREFULLY: Place the appropriate number that describes the varietal character of this variety in the boxes below. Place a zero in the first box (e.g., or) when the number is either 99 or less or 9 or less respectively. Data for quantitative plant characters should be based on a minimum of 100 plants. Comparative data should be determined from varieties entered in the same trial. Royal Horticultural Society or any recognized color standard may be used to determine plant colors; designate system used: ROYAL HORTICULTURE SOCIETY. Please answer all questions for your variety; lack of response may delay progress of your application.

1. TYPE:

1 = Garden 2 = Field 3 = Edible-podded 4 = Other (Specify) _____

2. MATURITY:

Node Number of First Bloom: No. of Days Processing Heat Units

No. of Days Earlier Than } 1 = Alaska 2 = Thomas Laxton WR 3 = Little Marvel
Days Same As } 4 = Wando 5 = Alderman WR 6 = Australian Winter
 No. of Days Later Than } 7 = Other (Specify) _____

3. PLANT HEIGHT:

cm High
 cm Shorter Than Name of Check Cultivar GRANGER
Same As Same as Check Cultivar _____
 cm Taller Than Name of Check Cultivar _____

4. VINE:

Habit: 1 = Determinate 2 = Indeterminate
 Branching: 1 = None (Alaska) 2 = 1-2 Branches (Little Marvel) 3 = More than 2 Branches (Dwarf Gray Sugar)
 Internodes: 1 = Straight 2 = Zig Zag Number of Nodes
 Stockiness: 1 = Slim (Alaska) 2 = Medium (Thomas Laxton WR) 3 = Heavy (Alderman)

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5. LEAFLETS: N/A

☐ Color: 1 = Light Green (Alaska WR) 2 = Medium Green (Thomas Laxton WR) 3 = Dark Green (Alderman)
 4 = Other (Specify) _____ 5 = Blue Green 6 = Yellow Green 0 = Not Applicable

☐ Wax: 1 = None 2 = Light 3 = Medium 4 = Heavy 0 = Not Applicable

☐ Molding: 1 = Not Marbled 2 = Marbled (Alaska) 0 = Not Applicable

☐ Number of Leaflet Pairs: 1 = Not Paired 2 = One 3 = Two 4 = Three or More 0 = Not Applicable

☐ Leaflet Type: 1 = Leafless 2 = Semi 3 = Normal *Affila type* *mat 6/02/2007*

6. STIPULES:

☐ 1 = Lacking 2 = Present ☐ 1 = Not Clasping 2 = Clasping ☐ 1 = Not Marbled 2 = Marbled

N/A ☐ Size (Compared with Leaflets): 1 = Smaller 2 = Same 3 = Larger 0 = Not Applicable

N/A ☐ Color (Compared with Leaflets): 1 = Lighter 2 = Same 3 = Darker 0 = Not Applicable

☐ Color: 1 = Light Green 2 = Medium Green 3 = Dark Green 4 = Blue Green 5 = Yellow Green 0 = Not Applicable

Color Chart Value: *137B* Select the Color Chart Used to Determine the Values:
☒ Royal Horticulture Society Colour Chart
☐ Munsell Color Chart
☐ Other _____

☐ Stipule Size: 1 = Small 2 = Medium 3 = Large

Please Provide Comparative Varieties (Check Varieties) and Stipule Color

Variety Name:	Variety (1)	Variety (2)	Variety (3)

7. FLOWER COLOR:

☐ Venation ☐ Standard ☐ Wing ☐ Keel

1 = White 2 = Greenish 3 = Lavender 4 = Purple 5 = Red 6 = Other (Specify) _____

8. PODS:

☐ Shape: 1 = Straight 2 = Slightly Curved 3 = Curved

☐ End: 1 = Pointed (Alderman) 2 = Blunt (Alaska)

☐ Color: 1 = Light Green (Alaska WR) 2 = Medium Green 3 = Dark Green (Alderman)
 4 = Other (Specify) _____ 5 = Blue 6 = Purple 7 = Yellow

☐ Surface: 1 = Smooth 2 = Rough ☐ Surface: 1 = Shiny 2 = Dull

☐ Borne: 1 = Single 2 = Double 3 = Single and Double 4 = Single, Double & Triple 5 = Double & Triple
 6 = Triple 7 = Other (Specify) _____ 8 = Quad, Single, Double, Triple 9 = Quad

☐ *54* mm Length ☐ *7.5* mm Width (Between Sutures) ☐ *06* No. Seeds Per Pod

9. SEEDS: (95-100 Tenderometer)

☐ Color: 1 = Light Green 2 = Green 3 = Dark Green 4 = Other (Specify) _____
 5 = Yellow 6 = Brown 7 = Yellow Green

1	2	3	4	5	6	7	8	Average

Seive: %

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9. SEEDS: (Dry-Mature)

- ☐4 Shape: 1 = Flattened 2 = Angular 3 = Oval 4 = Rounded
- ☐1 Surface: 1 = Smooth 2 = Dimpled ☐2 Luster: 1 = Shiny 2 = Dull
3 = Wrinkled
- ☐2 Color Pattern: 1 = Monocolor 2 = Mottled 3 = Striped 4 = Dotted
- ☐7 Primary Color: } 1 = Creamy White 2 = Cream & Green 3 = Light Green 4 = Medium Green
☐3 Secondary Color: } 5 = Dark Green 6 = Blue Green 7 = Yellow 8 = Brown
9 = Red 10 = Gray 11 = Black 12 = Salmon
13 = Purple 14 = Tan 15 = White 16 = Pink
17 = Yellow Green
- ☐2 Hilum Color: 1 = White 2 = Tan 3 = Black
- ☐2 Cotyledon Color: 1 = Green 2 = Yellow 3 = Orange 4 = Cream
- ☐15 Grams per 100 Seeds

10. DISEASE: (0 = Not Tested, 1 = Susceptible, 2 = Resistant, 3 = Moderately Resistant, 4 = Moderately Susceptible, 5 = Tolerant)

- | | |
|---|---|
| <input type="checkbox"/> 2 Fusarium Wilt – Race 1 | <input type="checkbox"/> 0 Fusarium Wilt (Near Wilt) – Race 2 |
| <input type="checkbox"/> 1 Ascochyta Blight | <input type="checkbox"/> 0 Common Mosaic |
| <input type="checkbox"/> 0 Bacterial Blight | <input type="checkbox"/> 1 Pea Enation Mosaic Virus |
| <input type="checkbox"/> 0 Downy Mildew | <input type="checkbox"/> 0 Seedborne Mosaic Virus |
| <input type="checkbox"/> 1 Powdery Mildew | <input type="checkbox"/> 0 Yellow Bean Mosaic Virus |
| <input type="checkbox"/> Other (Specify) _____ | <input type="checkbox"/> 0 Leaf Roll Virus |
| <input type="checkbox"/> Other (Specify) _____ | <input type="checkbox"/> Other (Specify) _____ |

11. INSECT: (0 = Not Tested, 1 = Susceptible, 2 = Resistant, 3 = Moderately Resistant, 4 = Moderately Susceptible, 5 = Tolerant)

- ☐0 Aphids ☐ Other (Specify) _____

12. Additional information on any item above, or general comments that may aid in identification:

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U.S. DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE**EXHIBIT E**
STATEMENT OF THE BASIS OF OWNERSHIP

Application is required in order to determine if a plant variety protection certificate is to be issued (7 U.S.C. 2421). The information is held confidential until the certificate is issued (7 U.S.C. 2426).

1. NAME OF APPLICANT(S) ProGene Plant Research L.L.C.	2. TEMPORARY DESIGNATION OR EXPERIMENTAL NUMBER WPX90105-9	3. VARIETY NAME Whistler
4. ADDRESS (Street and No., or R.F.D. No., City, State, and ZIP, and Country) 860 S Crestline Othello, WA 99344	5. TELEPHONE (Include area code) (509) 488-3977	6. FAX (Include area code) (509) 488-5289
7. PVPO NUMBER		200500341

8. Does the applicant own all rights to the variety? Mark an "X" in the appropriate block. If no, please explain.

☒ YES☐ NO

9. Is the applicant (individual or company) a U.S. national or a U.S. based company? If no, give name of country.

☒ YES☐ NO

10. Is the applicant the original owner?

☒ YES☐ NOIf no, please answer one of the following:

a. If the original rights to variety were owned by individual(s), is (are) the original owner(s) a U.S. National(s)?

☒ YES☐ NO

If no, give name of country

b. If the original rights to variety were owned by a company(ies), is (are) the original owner(s) a U.S. based company?

☒ YES☐ NO

If no, give name of country

11. Additional explanation on ownership (Trace ownership from original breeder to current owner. Use the reverse for extra space if needed):

PLEASE NOTE:

Plant variety protection can only be afforded to the owners (not licensees) who meet the following criteria:

1. If the rights to the variety are owned by the original breeder, that person must be a U.S. national, national of a UPOV member country, or national of a country which affords similar protection to nationals of the U.S. for the same genus and species.
2. If the rights to the variety are owned by the company which employed the original breeder(s), the company must be U.S. based, owned by nationals of a UPOV member country, or owned by nationals of a country which affords similar protection to nationals of the U.S. for the same genus and species.
3. If the applicant is an owner who is not the original owner, both the original owner and the applicant must meet one of the above criteria.

The original breeder/owner may be the individual or company who directed the final breeding. See Section 41(a)(2) of the Plant Variety Protection Act for definitions.

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